

DRAFT NEW RULE 202- February 18, 1999

Draft Rule 202 -February 18, 1999 will be discussed at Public Workshop #5 on Thursday, February 18, 1999 at 9 am in the Maricopa County Air Quality Division offices.

Direct comments and/or questions to the rule-writer, Johanna M. Kuspert

By telephone: 602-506-6710.

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The current due date for written comments on this draft is 5 pm on Friday, February 26, 1999.

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RULE 202

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502 RECORDS RETENTION

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS**

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REGULATION II - PERMITS AND FEES

RULE 202

PERMIT REQUIREMENTS FOR EARTHMOVING OPERATIONS

SECTION 100 - GENERAL

- 101 PURPOSE:** Rule 202 describes the permit requirements for earthmoving operations.
- 102 APPLICABILITY:** Rule 202 is applicable to any earthmoving operation, that is conducted for commercial, industrial, or institutional purposes and/or is conducted by any governmental entity, that disturbs a total surface area of 0.10 acre or more.
- 103 EFFECTIVE DATE OF THIS RULE:** Rule 202, adopted by the Board Of Supervisors on (date of Board adoption), shall be effective (the first day of the second month after the month of adoption).

SECTION 200 - DEFINITIONS (NOT INCLUDED)

See Rule 100 (General Provisions And Definitions) of these rules and/or see Rule 310 (Open Fugitive Dust Sources) of these rules for definitions of terms used in this rule.

SECTION 300 - STANDARDS

- 301 EARTHMOVING PERMIT:** Before commencing any earthmoving operation that disturbs a total surface area of 0.10 acre or more, the property owner, lessee, developer, or general/prime contractor shall first obtain an Earthmoving Permit from the Control Officer. The issuance of an Earthmoving Permit shall not relieve the property owner, lessee, developer, or general/prime contractor from complying with any and all Federal laws, State laws, and/or others of these rules, particularly Rule 310 of these rules, as such other requirements apply. Likewise, any Federal law or any State law does not relieve the property owner, lessee, developer, or general/prime contractor from obtaining and complying with an Earthmoving Permit, according to this rule.
- 302 EARTHMOVING PERMIT EXEMPTIONS:** The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit, in order to conduct the activities described in Subsection 302.1 thru Subsection 302.13 of this rule. However, conducting such activities without an Earthmoving Permit does not relieve the property owner, lessee, developer, or general/prime contractor from complying with any and all Federal laws, State laws, and/or others of these rules, as such other requirements apply.
- 302.1 Normal Farm Cultural Practices:** The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an

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Earthmoving Permit to conduct normal farm cultural practices, as described in Arizona Revised Statutes (ARS) §49-504.4. However, normal farm cultural practices could be subject to a permit under Title V of the Act (Permits) or could be subject to standards under 40 Code Of Federal Regulations (CFR) Part 60 (New Source Performance Standards) or Part 61 (Federal Hazardous Air Pollutant Program).

302.2 Rock Products-Type Operations: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit to conduct rock processing operations, sand and gravel operations, mining/mining operations, and/or any other operations, which are subject to a Title V permit or which are subject to a Non-Title V permit.

302.3 Earthmoving Operations Conducted By A Homeowner: An individual resident/A homeowner shall not be required to obtain an Earthmoving Permit to conduct earthmoving operations for individual residential purposes.

302.4 Emergency Repair Of Utilities, Paved Roads, Unpaved Roads, Shoulders, And/Or Alleys: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit to conduct emergency repair of utilities, paved roads, unpaved roads, shoulders, and/or alleys.

302.5 Life-Threatening Situations: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit during emergency, life threatening situations or in conjunction with any officially declared disaster or state of emergency.

302.6 Outages And Emergency Disruptions Of Essential Service Utilities: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit for operations conducted by essential service utilities to provide electricity, natural gas, oil, and gas transmission, cable television, telephone, water, and sewerage, during service outages and emergency disruptions.

302.7 Maintenance Of Flood Control Channels And Water Retention Basins: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit for non-routine maintenance or immediate maintenance of flood control channels and water retention basins.

302.8 Vehicle Testing And Development Facilities And Operations: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit for vehicle testing and development facilities and operations. However, this exemption applies only when dust is required to test and validate design integrity, product

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quality, and/or commercial acceptance and when such testing is not feasible within enclosed facilities.

302.9 Weed Abatement: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit to mow, to cut, and/or to conduct other similar processes, on any open area or vacant lot for weed abatement, for aesthetics, and/or to prevent fire hazards or unhealthy conditions. However, such cutting, mowing, and/or other similar processes, when completed, must allow the root structure of the groundcover to remain intact, so as to maintain a stabilized surface.

302.10 Application Of Herbicides: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit for the application of herbicides. However, the clean-up of any debris, in relation to the application of herbicides, must not disturb the soil surface.

302.11 Routine Landscape Maintenance: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit for routine landscape maintenance. For the purpose of this rule, "landscaping" does not include grading, trenching, nor any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

302.12 Cattle Feedlots And Livestock Areas: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit before operating, maintaining, using, or allowing the use of any commercial feedlot or commercial livestock area for purposes of feeding or displaying animals and/or before engaging in other activities, such as racing animals and/or exercising animals.

302.13 Unpaved Haul/Access Roads: The property owner, lessee, developer, or general/prime contractor shall not be required to obtain an Earthmoving Permit before causing, suffering, allowing the use of, allowing the maintenance of, engaging in the use of, or engaging in the maintenance of any permanently or semi-permanently, unpaved haul/access roads, that are associated with any industrial, commercial, institutional, and/or governmental related activity. This exemption only applies if such earthmoving operation is associated with an earthmoving operation for which the property owner, lessee, developer, or general/prime contractor has already been issued an Earthmoving Permit.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 EARTHMOVING PERMIT APPLICATION: The property owner, lessee, developer, or general/prime contractor shall file, with the Control Officer and on a form prescribed by the Control Officer, an Earthmoving Permit application.

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The Earthmoving Permit application shall include a Dust Control Plan, which meets the requirements of Rule 310 of these rules, and the full application fee, as described in Rule 280 of these rules. The Control Officer shall act on an Earthmoving Permit application and shall notify the applicant, within 14 calendar days of the filing of the completed application.

401.1 Annual Block Permit: The property owner, lessee, developer, or general/prime contractor responsible for more than one earthmoving operation, which consists of routine operation, maintenance, and expansion or extension of utilities, paved roads, unpaved roads, road shoulders and/or alleys, and public rights-of-way at non-contiguous sites, may submit, to the Control Officer, one Earthmoving Permit application. If the Control Officer approves and issues such Earthmoving Permit, such permit is considered an Earthmoving Permit Annual Block Permit

- a. An Earthmoving Permit Annual Block Permit application must include a Dust Control Plan, which meets the requirements of Rule 310 of these rules, and a description of the location and size of each site and type of activity to be conducted at each site within 12 months of permit issuance.
- b. For any project not listed in the Earthmoving Permit Annual Block Permit application, the applicant must notify the Control Officer in writing at least three working days prior to commencing the earthmoving operation. Such notification shall include the site location, size, type of activity, and start date.
- c. The conditions and requirements of an Earthmoving Permit Annual Block Permit are the same as those conditions and requirements described in Section 402 thru Section 408 of this rule.

401.2 General Permit: The property owner, lessee, developer, or general/prime contractor may apply for authority to operate under a General Permit, in accordance with Rule 230 of these rules, if applicable.

402 EARTHMOVING PERMIT CONDITIONS: The Control Officer may impose any permit conditions that are necessary to ensure compliance with Federal laws, State laws, or these rules. Orders issued or permit conditions imposed pursuant to this rule shall be appealable to the hearing board in the same manner as that prescribed in Rule 400 of these rules, in ARS §49-511, in ARS §49-490, and in ARS §49-482.

403 EARTHMOVING PERMIT AND DUST CONTROL PLAN POSTING: A copy of the Earthmoving Permit, as well as the approved Dust Control Plan, must be posted in a conspicuous location at the work site, within on-site equipment, in an on-site vehicle, or otherwise kept readily available on-site at all times.

404 EARTHMOVING PERMIT DENIAL: The Control Officer shall deny an Earthmoving Permit, if fugitive dust will be emitted or will be caused to be emitted in violation of Rule 310 of these rules and/or if the Dust Control Plan

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fails to meet the criteria described in Rule 310 of these rules. If the Control Officer denies the Earthmoving Permit, the Control Officer will notify the applicant in writing and will state the reasons for such denial.

405 EARTHMOVING PERMIT TERM: An Earthmoving Permit issued, pursuant to this rule, shall be valid for one year from the date of issuance. Each issued Earthmoving Permit shall include a provision that specifies the conditions under which the Earthmoving Permit will be re-opened, prior to the expiration date of such Earthmoving Permit.

406 EARTHMOVING PERMIT FEES: The property owner, lessee, developer, or general/prime contractor shall pay the required fees as set forth in Rule 280 of these rules.

SECTION 500 - MONITORING AND RECORDS

501 RECORDKEEPING: The property owner, lessee, developer, or general/prime contractor shall keep records, as required by Rule 310 of these rules.

502 RECORDS RETENTION: The property owner, lessee, developer, or general/prime contractor shall retain records, as required by Rule 310 of these rules.